IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1630 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 23/07/2004 in WVMP.NO.1013 OF 2004 AND WPMP.NO.11483 OF 2002 IN WP NO : 9297 OF 2002 on the file of the High Court.)

Between:

1. Dev Sambaiah S/o Dev Sammaiah

2. Dev Jampaiah S/o Dev Sammaiah

3. Dev Sammaiah S/o Dev Sailu
(All the appellants are residents of Koppula village, Shayampet Mandal, Warangal District

..... APPELLANTS

AND

1 Govt of AP. rep. by its Chief Secretary, General Administration
(SCA) Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Waragnal District, Warngal
3 The Revenue Divisional Officer, Mullugu Revenue Division,

Warangal District.
4 Mandal Revenue Inspector, Shyampet Mandal, Warngal District.

.....RESPONDENTS

Counsel for the Appellants: MR.SAI GANGADHAR CHAMARTY

Counsel for the Respondent No.1: GP FOR GENERAL ADMINISTRATION

Counsel for the respondent Nos.2 to 4: None appeared.

WRIT PETITION NO : 9297 of 2002

Between:

1. Dev Sambaiah S/o Dev Sammaiah

2. Dev Jampaiah S/o Dev Sammaiah

3. Dev Sammaiah S/o Dev Sailu
(All the petitioners are residents of Koppula village, Shayampet Mandal, Warangal District

..... PETITIONERS

AND

1 Govt of AP. rep. by its Chief Secretary, General Administration
(SCA) Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Waragnal, District Warngal
3 The Revenue Divisional Officer, Mullugu Revenue Division,
Warangal District.
4 Mandal Revenue Inspector, Shyampet Mandal, Warngal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly in the nature of Writ of Mandamus declaring the Distraint Order dt.27.4.2002 issued by 4th respondent as arbitrary, illegal, capricious and violative of rights of the petitioners herein guaranteed under Articles 14 and 21 of the Constitution of India and consequently direct respondent No.1 herein to pass

orders on the proposals submitted on 26.4.2000 by the 2nd respondent forthwith.

Counsel for the Petitioners : MR.SAI GANGADHAR CHAMARTY

Counsel for the Respondent No.1: GP FOR GENERAL ADMINISTRATION

Counsel for the respondent Nos. 2 to 4: None appeared.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. Order under challenge is an interim order of stay granted by learned single Judge of this Court while keeping the writ petition pending. By the order impugned in the appeal, learned single Judge stayed the recovery proceedings subject to petitioners – appellants depositing half of the amount sought to be recovered from the petitioners – appellants.

2 . Appellants – petitioners were sanctioned ex gratia amount since their properties were damaged in extremist violence and they were paid an amount as assessed initially but later on, it appears, the respondents on their own came to the conclusion that amount paid was in excess and therefore recovery proceedings were initiated to recover an amount of Rs.1,68,090=00, 2,45,199=00 and Rs.1,14,455=00 from the petitioners respectively. This action on the part of the respondents was challenged by filing writ petition alleging that the recovery was sought to be effected on the basis of some orders which had been passed by respondents without hearing the appellants. In the reply filed to the writ petition by respondents, this objection of the petitioners – appellants has not been adverted to. Admittedly before effecting any recovery from the petitioners – appellants and before taking any

decision whether the amount paid to the appellants – petitioners was or was not in excess, no opportunity was afforded to the appellants – petitioners. Once the amount is paid to the appellants and in case respondents had to effect recovery of any amount, it was but necessary for the respondents to have at least complied with the principles of natural justice, in the absence of which the act of the respondents becomes null and void. Accordingly while allowing the writ appeal, we allow the writ petition also and quash and set aside the recovery proceedings with direction that respondents are at liberty to take fresh decision in accordance with law only after affording an opportunity of being heard to the appellants for deducting the excess amount, if any, to be recovered from the petitioners – appellants. No costs.

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DEVINDER GUPTA. C.J.,

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C.V. RAMULU. J.,

Dated: 04.11.2004.

VRK.

To

1 The Chief Secretary, Govt. of A.P., General Administration
(SCA) Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Waragnal District, Warngal
3 The Revenue Divisional Officer, Mullugu Revenue Division,
Warangal District.
4 The Mandal Revenue Inspector, Shyampet Mandal, Warngal District.

4. Two CCs to G.P. for General Administration Department, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.V. RAMULU.

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W.A.NO.1630 OF 2004

AND

W.P.NO. 9297 OF 2002.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 04.11.2004.